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07/449,942	12/29/89	RANDOUX	C

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EXAMINER  
REITCHLE, K

ART UNIT	PAPER NUMBER
338	5

DATE MAILED: 09/21/90

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined  Responsive to communication filed on 12-29-89  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1.  Notice of References Cited by Examiner, PTO-892.
2.  Notice re Patent Drawing, PTO-948.
3.  Notice of Art Cited by Applicant, PTO-1449.
4.  Notice of Informal Patent Application, Form PTO-152
5.  Information on How to Effect Drawing Changes, PTO-1474.
6.  \_\_\_\_\_

Part II SUMMARY OF ACTION

1.  Claims 1-27 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2.  Claims \_\_\_\_\_ have been cancelled.

3.  Claims \_\_\_\_\_ are allowed.

4.  Claims 1-27 are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.

7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable;  not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been  approved by the examiner;  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed \_\_\_\_\_, has been  approved;  disapproved (see explanation).

12.  Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other

EXAMINER'S ACTION

The abstract, a copy of the PCT abstract, is acceptable for filing purposes only and a clean copy of the abstract, i.e. no PCT information or drawing will have to be filed prior to any allowance.

Each subsection of the specification, i.e. Background of the Invention, etc., should be preceded by a subtitle.

The prior art references cited on page 1 have not been considered as they are not in compliance with MPEP 609.

The use of the trademark MENEZZO, etc. has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

The drawings are objected to because the description of Figs. a-1(f) and those Figures are inconsistent, i.e. the Figures are partly in cross-section. Correction is required.

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written

description of the invention. On page 8, lines 19-20, it is stated that the thickness of the wall of biodegradable material play an "essential role". However, none of the claim include this limitation and thereby, it is unclear whether such a feature is indeed "essential".

Claims 1-27 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

Claims 1-27 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-27 are replete with improper claim syntax. For example, in regard to claim 1, it should be noted that the language of step (e), do not recite limitations which affect the method in a manipulative sense. Also, the references numerals also do not further limit the process. In regard to claim 3 the claim fails to recite process methodology, i.e. "bioggrading". In regard to claim 6, the structure description on lines 2 et seq is insufficient to support the language of line 1, what structure fertilizes? Also, the language "so-called lower" should be avoided. The language of line 6 et seq recites intended use only and do not further limit the structure of the claimed combination. Again, the reference numerals do not further limit the structure. In regard to claim

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8, a positive structural antecedent basis for "the plug acting as a piston". Claim 8 is indefinite in that it is unclear whether "(water tight)" is a limitation or not. It should be noted that these examples are not inclusive of all the informalities in claims 1-27. Claims 1-27 should be carefully reviewed and revised, as necessary.

Applicant's concept of a process and apparatus in which ~~in~~ intrauterine fertilization followed by transfer to the uterine cavity without removal from the uterine cavity therebetween defines over the art and if such concept were incorporated in the process and apparatus independent claims, such claims would be allowable. The foreign references made of record by Applicant were not considered as a translation thereof was not filed.



RANDALL L. GREEN  
SPE  
ART UNIT 338

  
K. Reichle/pw  
September 12, 1990  
September 14, 1990